

JUDGMENT

At a Special Term Part III, of the Supreme Court of the State of New York, Held in and for the County of New York, at the County Courthouse in Said County on the 15th Day of June 1954

Present—HONORABLE BENJAMIN F. SCHREIBER,
Justice

County Clerk's No. 12138—1953

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

THE CHASE NATIONAL BANK OF THE CITY OF NEW YORK, as Trustee under Indenture dated the 21st day of March, 1928, between Charles L. Cobb and The Chase National Bank of the City of New York, *Plaintiff*

—against—

BRUNO REINICKE, ELISABETH REINICKE, BRUNO CARL REINICKE, ROBERT HANS REINICKE, JOHANNE MARIA REINICKE SCHAEFER, HANS DIETRICH SCHAEFER, KLAUS REINICKE, FRITZ REINICKE, GERTRUD ERNST, HANS EGON SCHWARZBURGER, HANS ULRICH SCHWARZBURGER, ELISABETH SCHWARZBURGER, CHRISTA SCHWARZBURGER, ILSE SCHWARZBURGER ROTH, HANS ADOLF ROTH, HEIDE ROTH, CHRISTEL ROTH, EIKE ROTH, UWE ROTH, ECKARD ROTH, HANS EBERHARD SCHWARZBURGER, SABINE

SCHWARZBURGER, CHARLOTTE ROTT, KARLA MARIA ROTT VOM BAUR, FRITZ VOM BAUR, GERD VOM BAUR, BERND VOM BAUR, ROLAND ROTT, CHRISTOPH ROTT, ROSELORE KOSTER, formerly ROTT, TILO KOSTER, SITTA KOSTER and HERBERT BROWNELL, Jr., Attorney General of the United States, as Successor to the Alien Property Custodian, *Defendants*

The summons and complaint herein having been duly served upon the defendants herein and Arthur J. O'Leary, Esq. having been duly appointed guardian-ad-litem for the infant defendants Hans Ulrich Schwarzbürger, Elisabeth Schwarzbürger, Christa Schwarzbürger, Hans Adolf Roth, Heide Roth, Christel Roth, Eike Roth, Uwe Roth, Eckard Roth, Hans Eberhard Schwarzbürger, Sabine Schwarzbürger, Bernd Vom Baur, Christoph Rott, Tilo Koster and Sitta Koster, and Anatole Samuel Lourie, Esq. having been duly appointed guardian-ad-litem for the infant defendant, Hans Dietrich Schaefer, and the said guardians-ad-litem having duly qualified as required by law and the said Arthur J. O'Leary as guardian-ad-litem for his said wards having answered the complaint herein, and Anatole Samuel Lourie, Esq. as guardian-ad-litem for his said ward having answered the complaint herein, and Herbert Brownell, Jr., Attorney General of the United States as Successor to the Alien Property Custodian having appeared generally by J. Edward Lumbard, Esq., United States Attorney, and an answer having been filed in behalf of the said Attorney General in which he demanded that it be adjudged and de-

creed that Herbert Brownell, Jr. Attorney General of the United States as Successor to the Alien Property Custodian is entitled to the immediate possession of the property comprising the net corpus of the trust created by said indenture of trust dated March 21, 1928, by and between Charles L. Cobb and The Chase National Bank of the City of New York as trustee, with all income, accumulated income and increments thereon in the possession of or under the control of the plaintiff herein, and the said Anatole Samuel Lourie, Esq. having appeared herein on behalf of the defendants, Bruno Carl Reinicke, Robert Hans Reinicke and Johanne Maria Reinicke Schaefer, and having answered the complaint herein, and none of the other defendants having appeared or answered the complaint or made a motion addressed to the sufficiency of the complaint herein and the said guardian-ad-litem having filed their respective reports; and after hearing the proofs and allegations of the parties and the decision in writing of the Court having been filed, and the account and supplemental account of the plaintiff as Trustee under the said indenture dated March 21, 1928 between Charles L. Cobb and The Chase National Bank of the City of New York having been filed and the objections of the defendant Herbert Brownell, Jr. Attorney General of the United States as Successor to the Alien Property Custodian having been overruled without objection thereto by counsel for the Attorney General and the Military Service Affidavit having been filed and notice of pendency of the action under Rule XIX of the Special Term Rules having been filed,

NOW, on motion of Thomas A. Ryan, Esq., attorney for the plaintiff, it is

ORDERED, ADJUDGED AND DECREED, as follows:

1. The plaintiff is entitled to judgment as hereinafter provided.

2. The relief requested in the answer of Herbert Brownell, Jr., Attorney General of the United States as Successor to the Alien Property Custodian, is hereby denied.

3. The plaintiff, The Chase National Bank of the City of New York, as Trustee under the Indenture dated the 21st day of March, 1928, between Charles L. Cobb and The Chase National Bank of the City of New York, is entitled to judgment to have its account judicially settled.

4. The plaintiff, The Chase National Bank of the City of New York, has duly accounted for all and singular its acts and proceedings as Trustee under the Indenture dated the 21st day of March, 1928, between Charles L. Cobb and The Chase National Bank of the City of New York and for all of the property which came or should have come into its hands as such Trustee.

5. The account of the proceedings of The Chase National Bank of the City of New York as Trustee under the Indenture dated the 21st day of March, 1928, between Charles L. Cobb and The Chase National Bank of the City of New York, be and it hereby is judicially settled in all respects, and the acts and transactions and retention of investments of said Trustee therein set forth are in all respects approved.

6. The plaintiff, The Chase National Bank of the City of New York as Trustee under the Indenture dated the 21st day of March, 1928, be-

tween Charles L. Cobb and The Chase National Bank of the City of New York, is charged and credited as follows:

SUMMARY STATEMENT

(October 19, 1944 to May 8, 1953)

AS TO PRINCIPAL:

Charges

| | | |
|--|--------------|--------------|
| Amount of all property on hand October 19, 1944, date of our last account as set forth in Schedule A---- | \$617,470.65 | |
| Amount of all additional property received as set forth in Schedule A-1---- | 116,576.75 | |
| Amount of all increases on the sale or disposition of property as set forth in Schedule B----- | 1,994.47 | \$736,041.87 |

Credits

| | | |
|--|-----------|--------------|
| Amount of all decreases on the sale or disposition of property as set forth in Schedule B----- | 35,100.45 | |
| Amount of all payments made for administration expenses as set forth in Schedule C----- | 13,795.64 | |
| Amount of all funds transferred to income as set forth in Schedule D----- | 5,311.24 | 54,207.33 |
| Leaving a balance of----- | | \$681,834.54 |
| consisting of property, as set forth in Schedule E. | | |

AS TO INCOME:

Charges

| | | |
|---|-------------|--------------|
| Amount of all income on hand October 19, 1944, date of our last account-- | \$21,478.58 | |
| Amount of funds transferred from principal---- | 5,311.24 | |
| Amount of all income collected as set forth in Schedule F (Personal Property) ----- | 131,074.12 | |
| Amount of all income as set forth in Schedule F-1 (real property)----- | 3,034.15 | \$160,898.09 |

Credits

| | | |
|--|------------|------------|
| Amount of losses upon sale of assets constituting invested income as set forth in Schedule I----- | 20.52 | |
| Amount of all payments made for administration expenses as set forth in Schedule G (personal property)----- | 42,346.79 | |
| Amount of all payments made for administration expenses as set forth in Schedule G-1 (real property)----- | 1,501.29 | |
| Amount of all funds transferred to principal as set forth in Schedule J----- | 116,576.75 | |
| Amount of accrued interest on purchase of securities to be subsequently refunded upon next interest date as set forth in Schedule H----- | 62.36 | 160,507.71 |

Leaving an income cash balance of-----

\$390.38

The foregoing principal balance of \$681,834.54 consists of cash in the sum of \$2,202.37 and other property on hand on May 8, 1953 having an inventory value of \$679,632.17.

The said principal balance represents the inventory value of the cash and securities on hand in the principal account on May 8, 1953 and does not represent the market or actual value of the property held by the trustee or a sum of money or its equivalent for which the trustee is chargeable and is subject to trustee's commissions, legal fees and expenses of this accounting.

The foregoing income balance of \$390.38 consists entirely of cash and is subject to trustee's commissions and expenses of this accounting.

SUMMARY STATEMENT

(From May 9, 1953 to August 4, 1953)

AS TO PRINCIPAL:

| | |
|--|--------------------|
| Balance as shown in main account Schedule E----- | \$681,834.54 |
| Amount of all decreases as set forth in Schedule BB----- | \$9.77 |
| Amount of all payments made for administration expenses as set forth in Schedule CC----- | 12,623.35 |
| | <hr/> 12,633.12 |
| | <hr/> \$669,201.42 |

AS TO INCOME:

| | |
|---|------------------|
| Balance as shown in main account----- | \$390.38 |
| Amount of income collected as set forth in Schedule FF----- | \$5,088.68 |
| | <hr/> 5,088.68 |
| | <hr/> \$5,479.06 |

The foregoing principal balance of \$669,201.42 consists of cash in the sum of \$21,579.02 and other property on hand on August 4, 1953 having an inventory value of \$647,622.40, being the same securities set forth in Schedule E of the main account except \$32,000.00 United States of America Treasury Certificate of Indebtedness Series "B" which has since matured.

7. The Chase National Bank of the City of New York is hereby directed to make the following payments out of the principal and accumulated income of the said trust:

To Arthur J. O'Leary, Esq. the sum of Thirty five ----- hundred dollars (\$3500.00/100) which is allowed to him for services as guardian-ad-litem herein.

To Samuel Anatole Lourie, Esq. the sum of Thirty five ----- hundred dollars (\$3500.00/100) which is allowed to him for services as guardian-ad-litem herein.

To Samuel Anatole Lourie, Esq. the sum of Seven hundred and fifty dollars (\$750.00/100) which is allowed to him for services as attorney for Bruno Carl Reinicke, Robert Hans Reinicke and Johanne Marie Reinicke Schaefer.

To Thomas A. Ryan, Esq., The costs and disbursements of the plaintiff herein as taxed by the County Clerk who is hereby authorized to insert the amount thereof in this judgment, to wit,

Dollars (422.10).

8. The Chase National Bank of the City of New York is hereby released, relieved and forever discharged of and from any and all liability or accountability as to all matters and things set

forth in the said account and supplemental account or embraced in the judgment to be entered herein or in any way related to the said trust or the administration thereof except as to its liability to account for the balance of income and principal remaining in its hands as such Trustee as shown by the said account and supplemental account.

9. The plaintiff is directed to retain the principal and accumulated income of the trust under the said Indenture dated March 21, 1928, as provided therein, and no payment of income, of principal or of accumulated income of the said trust shall be made to any beneficiary without 60 days' written notice to the Attorney General of the United States to be given by registered mail.

Enter

B. F. S.
J. S. C.

Entered: June 22, 1954.

ARCHIBALD R. WATSON,
Clerk.

JUDGMENT

SUPREME COURT: NEW YORK COUNTY

County Clerk's No. 12138-1953

THE CHASE NATIONAL BANK OF THE CITY OF NEW YORK, as Trustee under Indenture dated the 21st day of March, 1928, between Charles L. Cobb and The Chase National Bank of the City of New York, *Plaintiff*

—against—

BRUNO REINICKE, ELISABETH REINICKE, BRUNO CARL REINICKE, ROBERT HANS REINICKE, JOHANNE MARIA REINICKE SCHAEFER, HANS DIETRICH SCHAEFER, KLAUS REINICKE, FRITZ REINICKE, GERTRUD ERNST, HANS EGON SCHWARZBURGER, HANS ULRICH SCHWARZBURGER, ELISABETH SCHWARTZBURGER, CHRISTA SCHWARTZBURGER, ILSE SCHWARTZBURGER ROTH, HANS ADOLF ROTH, HEIDE ROTH, CHRISTEL ROTH, EIKE ROTH, UWE ROTH, ECKARD ROTH, HANS EBERHARD SCHWARTZBURGER, SABINE SCHWARTZBURGER, CHARLOTTE ROTT, KARLA MARIA ROTT VOM BAUR, FRITZ VOM BAUR, GERD VOM BAUR, BERND VOM BAUR, ROLAND ROTT, CHRISTOPH ROTT, ROSELORE KOSTER, formerly ROTT, TILO KOSTER, SITTA KOSTER AND HERBERT BROWNELL, JR., ATTORNEY GENERAL OF THE UNITED STATES AS SUCCESSOR TO THE ALIEN PROPERTY CUSTODIAN, *Defendants*

The above named defendant, Herbert Brownell, Jr., Attorney General of the United States

as Successor to the Alien Property Custodian, having appealed to the Appellate Division of the Supreme Court, First Department, from the judgment of the Supreme Court entered in the office of the Clerk of the County of New York on the 22nd day of June, 1954, granting judgment for the plaintiff and the said appeal having come on to be heard before the said Appellate Division and the said Appellate Division having duly made an order dated June 14, 1955, a certified copy of which, with the papers upon which the appeal was heard, was filed on June 17, 1955, in the Office of the Clerk of the County of New York by which it appears that the said Appellate Division has ordered unanimously that the said judgment so appealed from as aforesaid, be in all things affirmed with costs, and said costs having been duly taxed,

Now, on motion of Thomas A. Ryan, Esq., attorney for the plaintiff herein, The Chase National Bank of the City of New York as Trustee under Indenture dated the 21st day of March, 1928, between Charles L. Cobb and The Chase National Bank of the City of New York of 18 Pine Street, New York, N. Y., it is

ADJUDGED, that the judgment entered herein on the 22nd day of June, 1954, be and the same hereby is in all things affirmed and it is further

ADJUDGED, That the said The Chase National Bank of the City of New York as Trustee under Indenture dated the 21st day of March, 1928, between Charles L. Cobb and The Chase National Bank of the City of New York of 18 Pine Street, New York, New York, recover of the defendant

Herbert Brownell, Jr., Attorney General of the United States as Successor to the Alien Property Custodian of Washington, D. C., the sum of Two hundred eleven and $93/100$ ----- dollars (\$211.93) the amount of its costs herein as taxed, and it is further

ADJUDGED, that the infant defendant-respondent herein, Hans Dietrich Schaefer by his guardian-ad-litem, Samuel Anatole Lourie, of 15 Broad Street, New York, N. Y. and defendants-respondents herein Bruno Carl Reinicke of 938 M/ 3th Street, Manitowoc, Wisconsin; Robert Hans Reinicke, of 3210 W. Juneau Avenue, Milwaukee 8, Wisconsin and Johanne Maria Reinicke Schaefer of 4222 Clements, Detroit, Michigan, recover of the defendant Herbert Brownell, Jr., Attorney General of the United States as Successor to the Alien Property Custodian of Washington, D. C. the sum of One hundred twenty seven and $62/100$ ----- dollars (\$127.62) the amount of their costs as taxed, and it is further

ADJUDGED, that the infant defendants-respondents herein, Hans Ulrich Schwarzbürger, Elisabeth Schwarzbürger, Christa Schwarzbürger, Hans Adolf Roth, Heide Roth, Christel Roth, Eike Roth, Uwe Roth, Eckard Roth, Hans Eberhard Schwarzbürger, Sabine Schwarzbürger, Bernd Vom Bauer, Christoph Rott, Tilo Koster and Sitta Koster by their guardian-ad-litem Arthur J. O'Leary, Esq. of 70 Pine Street, New York, N. Y., recover of the defendant Herbert Brownell, Jr., Attorney General of the United States as Successor to the Alien Property Custodian of Washington, D. C. the sum of Ninety

and 53/100 dollars (\$90.53) the amount of their costs as taxed.

Judgment signed and entered this 5th day of July, 1955.

ARCHIBALD R. WATSON,

Clerk.